

Application No. 09/649,122
Filed: August 28, 2000
TC Art Unit: 3626
Confirmation No.: 7057

REMARKS

The instant response is filed in response to the Office Action dated July 16, 2004. Reconsideration is respectfully requested.

The status of the claims is as follows:

Claims 1-87 are currently pending.

Claims 1-87 stand rejected.

The official action indicates that the reply dated April 5, 2004 is not fully responsive to the prior Office Action because the amendment fails to argue why the newly amended claims overcome the prior art or record. Specifically, the reply fails to point out specific distinctions between the claims and the prior art of record that are believed to render the claims patentable over the prior art.

The Applicants respectfully point out that claims 1, 11, 19-20, 27-31, 35, 38, 40, 44, 46, 65, 67, 82, and 86-87 were amended, claims 15, 21, 25-26, 64, and 85 were canceled without prejudice, and arguments were presented as to why the amended claims overcome the rejections in the prior response dated April 5, 2004. With respect to the rejections under 35 U.S.C. 102(b) based upon a public use or sale of the invention, the Applicants submitted a Declaration in the prior response attesting to the fact that the

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subject matter recited in claims 1-87 was not offered for sale more than one year prior to the earliest priority date of June 28, 2000. Although the assignee of the above-referenced application (Kronos Incorporated) sold a labor scheduling and optimization software product known as SMART SCHEDULER from at least 1993 to 1999, the Kronos software product did not contain the invention(s) claimed in the above-referenced application, as set forth in paragraph 8 of the Declaration.

Specifically, neither the SMART SCHEDULER software product nor the prior art of record, namely, USP 6,587,831, USP 6,574,605, USP Application 2001/0049619 A1, "Kronos announces release of Smart Scheduler software", and "Kronos unveils Smart Scheduler", teaches or suggests a method and system for forecasting business volume and workforce requirements with the aid of a computer system that is operative to calculate workforce requirements by resource leveling, as recited in base claims 1, 46, 82, and 86-87. More specifically, the prior art of record neither teaches nor suggests a resource leveling technique that includes determining valleys in a preliminary schedule, ranking the valleys, assigning at least one unassigned task to a highest-ranked valley, and repeating the steps of determining peaks, determining valleys, ranking the valleys and assigning at least one unassigned task, as

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recited in claims 1, 65, and 86-87. Such calculation of workforce requirements including resource leveling is described throughout the instant application, for example, see page 4, lines 15-22, of the application.

Accordingly, the Applicants respectfully submit that the reply to the prior Office Action is fully responsive, and that the rejections of claims 1-87 under 35 U.S.C. sections 101 and 102 contained in the prior Office Action are unwarranted and should be withdrawn.

In view of the foregoing, it is respectfully submitted that the present application is in a condition for allowance. Early and favorable action is respectfully requested.

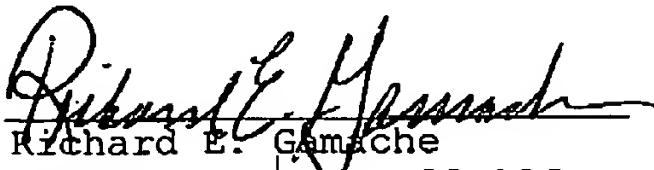
The Examiner is encouraged to telephone the undersigned Attorney to discuss any matter that would expedite allowance of

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the present application.

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